

REMARKS

In reference to an Office Action dated January 17, 2002 (hereinafter "Office Action"), Applicants thank Examiner Hwang for his review and acceptance of the terminal disclaimer filed on October 12, 2001, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,080,091. Applicants also thank Mr. Hwang for noting the typographical error present in the paragraph of the specification beginning at page 1, line 3, wherein the year "1989" was inadvertently typed in lieu of the correct year "1999." This typographical error has been corrected by amendment in this response.

Claims 2-21 are pending in this application. In the Office Action, Claims 9 and 14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 2-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,417,633 issued to Habing (hereinafter "Habing"). Claims 2-8 and 10-13 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. D359,326 issued to Deola (hereinafter "Deola"). Claims 2, 3, 6, 7, and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,304,107 issued to Jones (hereinafter "Jones"). Claims 2, 9, 11, and 14 have been amended and Claim 10 has been canceled. As a result, Claims 2-9 and 11-21 are now pending in the application. Applicants respectfully submit that all claims are not anticipated nor obvious in view of the cited references.

I. Objection to Specification

The Office Action objected to the disclosure because the information under the heading "Related Applications" needed to be updated. Applicants have amended the specification to correct the noted error. Accordingly, applicants respectfully submit that the objection to the specification has been overcome.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

II. Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 9 and 14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Office Action sets forth the position that the language "the respective secondary pivot axis" on line 2 of Claims 9 and 14 lacks antecedent basis.

Applicants thank the Examiner for the comments regarding the claim language and have amended the claims accordingly. In view of the foregoing claim amendments, applicants respectfully submit that the rejections under 35 U.S.C. § 112, second paragraph, have been overcome.

III. Claim Rejections Under 35 U.S.C. § 102(b)

1. Rejection of Claims 2-14 Under Habing

Claims 2 and 11, as well as certain claims stemming therefrom, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Habing. Amended Claim 2 now recites that the "pivot axis of the secondary pivots are substantially orthogonal to the pivot axis of the main pivot." Amended Claim 11 recites an exercise machine comprising "a main pivot and a pair of laterally spaced apart secondary pivots substantially orthogonal with respect to the main pivot." In contrast, Habing teaches orienting the secondary pivots substantially *parallel* with the main pivot. This aspect is best seen by referring to Figures 1, 3 and 5 of Habing. A press arm 130 is pivotally secured at a horizontally oriented main pivot axis 132 (See Figure 3) to a top beam 30. The secondary arms 158 are pivotally coupled to the press arm 130 through a horizontally oriented secondary pivot axis 154 located parallel to the horizontally oriented main pivot axis 132. By definition, two parallel oriented axis, such as represented by the main pivot axis 132 and the secondary pivot axis 154 of Habing, can not be orthogonally oriented relative to

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

one another. Thus, Habing fails to teach or suggest an exercise apparatus having the pivot axis of the secondary pivots substantially orthogonal to the pivot axis of the main pivot, as now generally set forth in amended Claims 2 and 11.

In conclusion, because Habing fails to teach or suggest an exercise apparatus having the pivot axis of the secondary pivots substantially orthogonal to the pivot axis of the main pivot, Habing fails to teach each and every element as generally set forth in amended Claims 2 and 11. Accordingly, applicants respectfully request the pending rejection of Claims 2 and 11 under 35 U.S.C. § 102(b) be withdrawn. Further, applicants further submit that Claims 2 and 11 are also non-obvious in reference to the teachings of Habing, whether taken individually or in combination with any of the references of record. Claims 3-9 and 12-14 depend on either Claim 2 or 11. Therefore, for at least the reasons argued above for Claims 2 and 11, dependent Claims 3-9 and 12-14 are also allowable.

Claim 10

Claim 10 was rejected to as anticipated by Habing under 35 U.S.C. § 102(b). Although applicants respectfully disagree that Claim 10 is anticipated by Habing, Claim 10 has been cancelled and, therefore, the rejection is now moot.

2. Rejection of Claims 2-8 and 10-13 Under Deola

Claims 2 and 11, as well as certain dependent claims stemming therefrom, were rejected under 35 U.S.C. § 102(b) as being anticipated by Deola. Deola is directed toward an exercise apparatus comprising a frame, a press arm pivotally coupled to the frame, the press arm having a main arm depending from a main pivot and a pair of secondary arms coupled to the main arm at respective secondary pivots. As best seen in Figure 1, the secondary pivots are oriented at an angle other than substantially orthogonal with respect to the main pivot. More specifically, the press arm is pivotally coupled to the frame by a horizontally oriented main pivot. The

secondary arms are coupled to the main arm by secondary pivots such that the secondary pivot axis forms an angle that is generally *oblique* to the horizontally oriented main pivot axis. Thus, Deola fails to teach or suggest an exercise apparatus wherein the pivot axis of the secondary pivots are substantially orthogonal to the pivot axis of the main pivot as generally recited in amended Claims 2 and 11. Therefore, Deola fails to teach each and every element as set for in amended Claims 2 and 11. Accordingly, applicants respectfully request the pending rejection of Claims 2 and 11 under 35 U.S.C. § 102(b) be withdrawn. Claims 3-8, 12 and 13 are dependent on Claims 2 or 11. Therefore, for at least the reasons argued above for Claims 2 and 11, dependent Claims 3-8, 12 and 13 are allowable.

Claim 10

Claim 10 was rejected to as anticipated by Deola under 35 U.S.C. § 102(b). Although applicants respectfully disagree that Claim 10 is anticipated by Deola, Claim 10 is cancelled by action of the amendment, therefore the rejection is now moot.

3. Rejection of Claims 2, 3, 6, 7, and 9 Under Jones

Claim 2 was rejected under 35 U.S.C. § 102(b) as being anticipated by Jones. Amended Claim 2 recites an exercise apparatus wherein "the pivot axis of the secondary pivots are substantially orthogonal to the pivot axis of the main pivot." In contrast, and as best seen in FIGURE 2, the secondary pivots of the exercise apparatus taught by Jones are oriented at an angle other than substantially orthogonal with respect to the main pivot. More specifically, Jones teaches pivotally coupling a pair of secondary arms 48 to a pair of main arm members 47. The main arm members 47 are coupled to a frame by a horizontally oriented main pivot (unlabeled, but located directly above reference numeral 47). The secondary arms 48 are coupled to the main arm members 47 by a pair of secondary pivots (unlabeled, but located directly above reference numeral 48) by secondary pivot axis located, such that the second pivot axis is nearly

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

parallel with that of the main pivot axis. Thus, Jones fails to teach an exercise apparatus having the pivot axis of the secondary pivots substantially orthogonal to the pivot axis of the main pivot, as now generally set forth in amended Claim 2.

In conclusion, since Jones at least fails to teach an exercise apparatus wherein "the pivot axis of the secondary pivots are substantially orthogonal to the pivot axis of the main pivot," Jones fails to teach each and every element as set forth in amended Claim 2. Accordingly, applicants respectfully request the pending rejection of Claim 2 under 35 U.S.C. § 102(b) be withdrawn. Claims 3, 6, 7, and 9 are dependent on Claim 2. Therefore, for at least the reasons argued above for Claim 2, dependent Claims 3, 6, 7, and 9 are allowable.

IV. New Claims 15-21

New Claims 15-21 have been added to further point out and distinctly claim the novel aspects of the claimed embodiments of the present invention. Applicants submit that the prior art, alone or in combination, does not teach or suggest applicants' claimed embodiments of the present invention as recited in Claims 15-21. Therefore, applicants submit that new Claims 15-21 are allowable over the prior art.

CONCLUSION

In view of the foregoing amendments and remarks above, applicants respectfully submit that the present application is in condition for allowance. Consequently, early and favorable action allowing these claims and passing this application to issue is respectfully solicited. If any questions remain that may be expeditiously resolved by telephone, the Examiner is invited to contact the applicants' undersigned attorney at the number below.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

for 12/1/00 Reg. No. 44,060
for

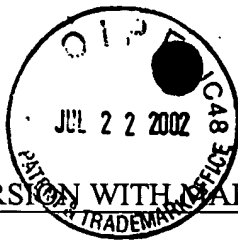
Bradley T. Fox
Registration No. 47,572
Direct Dial No. 206.695.1770

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to the U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202, on the below date.

Date: _____

BTF/BDK:lls

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100



VERSION WITH MARKINGS TO SHOW CHANGES MADE JULY 17, 2002

In the Specification:

Please delete the paragraph beginning on page 1, line 3, under heading 1. Related Applications in the current application and replace it with the following new paragraph:

This application is a continuation of Patent Application No. 09/271,689, filed March 18, 1999, now U.S. Patent No. 6,080,091, which is a continuation of Application No. 08/895,517, filed July 16, 1997, abandoned.

In the Claims:

2. (Two Times Amended) An exercise apparatus comprising:
a frame;

a press arm pivotally coupled to the frame, said press arm having a main arm member depending from a main pivot on the frame and a pair of secondary arms coupled to the main arm member at respective secondary pivots, wherein the main pivot and each of the secondary pivots has a respective pivot axis and wherein the pivot axis of the secondary pivots are substantially orthogonal to the pivot axis of the main pivot, and wherein each of the secondary arms pivot[s] both inwardly and outwardly from [a pendulous,] an at rest position about a respective one of the secondary pivots along an arcuate path that is fixed relative to the main arm member;

a source of exercise resistance; and

means for coupling said source of exercise resistance to said press arm.

9. (Amended) The exercise apparatus of Claim 2 wherein each of the secondary arms extends at an oblique angle [with respect to the respective] relative to the respective one of the secondary pivot axis.

11. (Two Times Amended) A press arm for an exercise machine comprising a main arm member having a main pivot and a pair of laterally spaced apart secondary pivots

RECEIVED
JUL 25 2002
TECHNOLOGY CENTER R3700

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

substantially orthogonal with respect to the main pivot, and secondary pivots substantially parallel to one another and inclined with respect to vertical;

a pair of secondary arms coupled to the main arm member at respective ones of the secondary pivots; and

wherein each of the secondary arms pivot[s] both inwardly and outwardly from [a pendulous,] an at rest position about a respective one of the secondary pivots along an arcuate path that is fixed relative to the main arm member.

14. (Amended) The press arm of Claim 11 wherein each of the secondary arms extends at an oblique angle [with respect to the respective] relative to the respective one of the secondary pivot axis.

15. (New) An exercise apparatus comprising:

a frame;

a press arm pivotally coupled to the frame from a main pivot on the frame and a first secondary arm coupled to the press arm at a first secondary pivot, wherein the main pivot and the first secondary pivot each have a pivot axis and wherein the pivot axis of the first secondary pivot is substantially orthogonal to the pivot axis of the main pivot, and wherein the first secondary arm pivots both inwardly and outwardly from an at rest position about the first secondary pivot along an arcuate path that is fixed relative to the press arm;

a source of exercise resistance; and

means for coupling said source of exercise resistance to said press arm.

16. (New) The exercise apparatus of Claim 15, further comprising a second secondary arm coupled to the press arm at a second secondary pivot.

17. (New) The exercise apparatus of Claim 15, wherein the first secondary arm extends at an oblique angle with respect to the first secondary pivot axis.

18. (New) An exercise apparatus comprising:

a frame;

a press arm pivotally coupled to the frame from a main pivot on the frame and a pair of secondary arms coupled to the press arm at respective secondary pivots, wherein the main pivot and each of the secondary pivots has a respective pivot axis and wherein the pivot axis of the secondary pivots are substantially orthogonal to the pivot axis of the main pivot, and wherein each of the secondary arms pivot both inwardly and outwardly from an at rest position about a respective one of the secondary pivots along an arcuate path that is fixed relative to the press arm;

a source of exercise resistance; and

means for coupling said source of exercise resistance to said press arm.

19. (New) The exercise apparatus of Claim 18, wherein each of the secondary arms extend at an oblique angle with respect to the pivot axis of the secondary pivots.

20. (New) An exercise apparatus comprising:

a frame;

a press arm pivotally coupled to the frame at a main pivot on the frame and a pair of secondary arms coupled to the press arm at respective secondary pivots, wherein the main pivot and each of the secondary pivots has a respective pivot axis, wherein the pivot axis of the secondary pivots are substantially orthogonal to the pivot axis of the main pivot, and wherein each of the secondary arms are suspended when at rest;

a source of exercise resistance; and

means for coupling said source of exercise resistance to said press arm.

21. (New) The exercise apparatus of Claim 20, wherein each of the secondary arms extend at an oblique angle with respect to the pivot axis of the secondary pivots.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100